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APPLICATION NO.	FILING DATE	FIRST NAMED INVENTOR	ATTORNEY DOCKET NO.	CONFIRMATION NO.
10/805,759	03/22/2004	Nancy J. Gettens	8474	1249

7590 09/30/2004
POLAROID CORPORATION
Patent Department
1265 Main Street
Waltham, MA 02451

EXAMINER CURTIS, CRAIG	
ART UNIT 2872	PAPER NUMBER

DATE MAILED: 09/30/2004

Please find below and/or attached an Office communication concerning this application or proceeding.

Office Action Summary

Application No.	Applicant(s)	
10/805,759	GETTENS, NANCY J.	
Examiner	Art Unit	
Craig Curtis	2872	

-- The MAILING DATE of this communication appears on the cover sheet with the correspondence address --

Period for Reply

A SHORTENED STATUTORY PERIOD FOR REPLY IS SET TO EXPIRE 3 MONTH(S) FROM THE MAILING DATE OF THIS COMMUNICATION.

- Extensions of time may be available under the provisions of 37 CFR 1.136(a). In no event, however, may a reply be timely filed after SIX (6) MONTHS from the mailing date of this communication.
- If the period for reply specified above is less than thirty (30) days, a reply within the statutory minimum of thirty (30) days will be considered timely.
- If NO period for reply is specified above, the maximum statutory period will apply and will expire SIX (6) MONTHS from the mailing date of this communication.
- Failure to reply within the set or extended period for reply will, by statute, cause the application to become ABANDONED (35 U.S.C. § 133). Any reply received by the Office later than three months after the mailing date of this communication, even if timely filed, may reduce any earned patent term adjustment. See 37 CFR 1.704(b).

Status

- 1) ☒ Responsive to communication(s) filed on 22 March 2004.
- 2a) ☐ This action is FINAL. 2b) ☒ This action is non-final.
- 3) ☐ Since this application is in condition for allowance except for formal matters, prosecution as to the merits is closed in accordance with the practice under *Ex parte Quayle*, 1935 C.D. 11, 453 O.G. 213.

Disposition of Claims

- 4) ☒ Claim(s) 7-11 is/are pending in the application.
- 4a) Of the above claim(s) _____ is/are withdrawn from consideration.
- 5) ☐ Claim(s) _____ is/are allowed.
- 6) ☒ Claim(s) 7-11 is/are rejected.
- 7) ☐ Claim(s) _____ is/are objected to.
- 8) ☐ Claim(s) _____ are subject to restriction and/or election requirement.

Application Papers

- 9) ☐ The specification is objected to by the Examiner.
- 10) ☐ The drawing(s) filed on _____ is/are: a) ☐ accepted or b) ☐ objected to by the Examiner.
Applicant may not request that any objection to the drawing(s) be held in abeyance. See 37 CFR 1.85(a).
Replacement drawing sheet(s) including the correction is required if the drawing(s) is objected to. See 37 CFR 1.121(d).
- 11) ☐ The oath or declaration is objected to by the Examiner. Note the attached Office Action or form PTO-152.

Priority under 35 U.S.C. § 119

- 12) ☐ Acknowledgment is made of a claim for foreign priority under 35 U.S.C. § 119(a)-(d) or (f).
- a) ☐ All b) ☐ Some * c) ☐ None of:
- ☐ Certified copies of the priority documents have been received.
 - ☐ Certified copies of the priority documents have been received in Application No. _____.
 - ☐ Copies of the certified copies of the priority documents have been received in this National Stage application from the International Bureau (PCT Rule 17.2(a)).

* See the attached detailed Office action for a list of the certified copies not received.

Attachment(s)

- | | |
|--|---|
| 1) <input checked="" type="checkbox"/> Notice of References Cited (PTO-892) | 4) <input type="checkbox"/> Interview Summary (PTO-413)
Paper No(s)/Mail Date. _____ |
| 2) <input type="checkbox"/> Notice of Draftsperson's Patent Drawing Review (PTO-948) | 5) <input type="checkbox"/> Notice of Informal Patent Application (PTO-152) |
| 3) <input checked="" type="checkbox"/> Information Disclosure Statement(s) (PTO-1449 or PTO/SB/08)
Paper No(s)/Mail Date <u>3/22/2004</u> . | 6) <input type="checkbox"/> Other: _____ |

DETAILED ACTION

Disposition of the Instant Application

- This Office Action is responsive to Applicant's Preliminary Amendment filed on 22 March 2004, which has been made of record in the file.
- By this amendment, Applicant has canceled claims 1-6.
- Accordingly, claims 7-11 presently are pending in the instant application.

Drawings

1. The drawings are objected to under 37 CFR 1.83(a). The drawings must show every feature of the invention specified in the claims. Therefore, the description regarding the *non-uniform layer thickness of said second layer of thermoplastic polymeric material*, as well as the additional description wherein *said second layer has maximum thickness in the central region thereof* and *diminishing gradually in thickness radially toward the periphery thereof*, must be shown or the feature(s) canceled from the claim(s). See, e.g., claim 7, lines 1-6 (emphasis added). **No new matter should be entered.**

Corrected drawing sheets in compliance with 37 CFR 1.121(d) are required in reply to the Office action to avoid abandonment of the application. Any amended replacement drawing sheet should include all of the figures appearing on the immediate prior version of the sheet, even if only one figure is being amended. The figure or figure number of an amended drawing should not be labeled as "amended." If a drawing figure is to be canceled, the appropriate figure must be removed from the replacement sheet, and where necessary, the remaining figures must be renumbered and appropriate changes made to the brief description of the several views of the

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drawings for consistency. Additional replacement sheets may be necessary to show the renumbering of the remaining figures. The replacement sheet(s) should be labeled "Replacement Sheet" in the page header (as per 37 CFR 1.84(c)) so as not to obstruct any portion of the drawing figures. If the changes are not accepted by the examiner, the Applicant will be notified and informed of any required corrective action in the next Office Action. **This objection to the drawings will NOT be held in abeyance.**

Claim Objections

2. Claims 7-11 are objected to because of the following informalities: It is unclear how said shaped plastic lens can reasonably be denominated as being a *lens* when, as presently recited in the preamble of independent claim 7, said shaped plastic lens is claimed as having *substantially no optical power*. See claim 7, lines 1-2. **Appropriate correction is required.**

Claim Rejections - 35 USC § 102

The following is a quotation of the appropriate paragraphs of 35 U.S.C. 102 that form the basis for the rejections under this section made in this Office action:

A person shall be entitled to a patent unless –

(e) the invention was described in a patent granted on an application for patent by another filed in the United States before the invention thereof by the applicant for patent, or on an international application by another who has fulfilled the requirements of paragraphs (1), (2), and (4) of section 371(c) of this title before the invention thereof by the applicant for patent.

3. The changes made to 35 U.S.C. 102(e) by the American Inventors Protection Act of 1999 (AIPA) and the Intellectual Property and High Technology Technical Amendments Act of 2002 do not apply when the reference is a U.S. patent resulting directly or indirectly from an international application filed before November 29, 2000. Therefore, the prior art date of the

reference is determined under 35 U.S.C. 102(e) prior to the amendment by the AIPA (pre-AIPA 35 U.S.C. 102(e)).

4. Claims 7-11 are rejected under 35 U.S.C. 102(e) as being anticipated by Nakagoshi (U.S. Pat. No.: 6,650,473 B2).

With regard to claim 7, Nakagoshi discloses the invention as claimed—[a] shaped plastic lens convex on one side and concave on the other side (see Fig. 1) and having substantially no optical power [implicit: cf. lens depicted in Fig. 1 of Nakagoshi with that depicted in, for the sake of example, Fig. 6 of the instant application] comprising a first substantially uniformly thick layer of thermoplastic polymeric material (see 6 in Fig. 1; also see col. 2, ll. 61-65, cellulose triacetate being a thermoplastic polymeric material) and a second layer of thermoplastic polymeric material of non-uniform thickness (see 10 in Fig. 1 of Nakagoshi) and having high scratch resistance (implicit, the modifier *high* being a relative term), said second layer having maximum thickness in the central region thereof (see Fig. 1) and diminishing gradually in thickness radially toward the periphery thereof (*id.*), wherein said first substantially uniformly thick layer forms said concave side of the lens and said second layer forms said convex side of the lens.

With regard to claim 8, Nakagoshi further discloses wherein a layer of light-polarizing material is included in said first layer of said lens. See 8 in Fig. 1; also see col. 2, ll. 61-65.

With regard to claims 9 & 10, Nakagoshi further discloses the use of polycarbonate, a thermoplastic material that, in light of the fact that the relative modifier *high* is subject to reasonably broad interpretation, implicitly exhibits high scratch resistance. For the colored layer recitation in claim 10, please see, e.g., the ABSTRACT.

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With regard to claim 11, please see Fig. 1, taking 10 to be the convex portion of said lens.

Double Patenting

The nonstatutory double patenting rejection is based on a judicially created doctrine grounded in public policy (a policy reflected in the statute) so as to prevent the unjustified or improper timewise extension of the "right to exclude" granted by a patent and to prevent possible harassment by multiple assignees. See *In re Goodman*, 11 F.3d 1046, 29 USPQ2d 2010 (Fed. Cir. 1993); *In re Longi*, 759 F.2d 887, 225 USPQ 645 (Fed. Cir. 1985); *In re Van Ornum*, 686 F.2d 937, 214 USPQ 761 (CCPA 1982); *In re Vogel*, 422 F.2d 438, 164 USPQ 619 (CCPA 1970); and, *In re Thorington*, 418 F.2d 528, 163 USPQ 644 (CCPA 1969).

A timely filed terminal disclaimer in compliance with 37 CFR 1.321(c) may be used to overcome an actual or provisional rejection based on a nonstatutory double patenting ground provided the conflicting application or patent is shown to be commonly owned with this application. See 37 CFR 1.130(b).

Effective January 1, 1994, a registered attorney or agent of record may sign a terminal disclaimer. A terminal disclaimer signed by the assignee must fully comply with 37 CFR 3.73(b).

5. Claims 7-11 are rejected under the judicially created doctrine of obviousness-type double patenting as being unpatentable over claim 11 of U.S. Patent No.: 5,434,707 (hereinafter referred to as the “‘707 patent”). Although the conflicting claims are not identical, they are not patentably distinct from each other because the claims are sufficiently similar to subject the claims of the instant application to double patenting rejection. Compare, for the sake of example, claim 7 of the instant application with claim 11 of the ‘707 patent.

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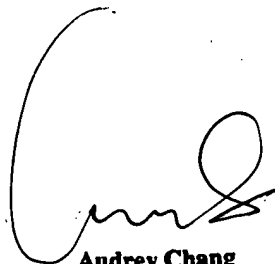
Contact Information

6. Any inquiry concerning this communication or earlier communications from the examiner should be directed to Craig Curtis, whose telephone number is (571) 272-2311. The examiner can normally be reached on Monday-Friday, 9:00 A.M. to 6:00 P.M..

If attempts to reach the examiner by telephone are unsuccessful, the examiner's supervisor, Drew A. Dunn, can be reached at (571) 272-2312. The fax phone number for the organization where this application or proceeding is assigned is 703-872-9306.

Information regarding the status of an application may be obtained from the Patent Application Information Retrieval (PAIR) system. Status information for published applications may be obtained from either Private PAIR or Public PAIR. Status information for unpublished applications is available through Private PAIR only. For more information about the PAIR system, see <http://pair-direct.uspto.gov>. Should you have questions on access to the Private PAIR system, contact the Electronic Business Center (EBC) at 866-217-9197 (toll-free).

C.H. C.
Craig H. Curtis
Group Art Unit 2872
23 September 2004


Audrey Chang
Primary Examiner
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